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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,737	01/07/2004	Stephanie Kraus	54317-025904	6352
33717	7590	07/26/2005	EXAMINER	
GREENBERG TRAURIG LLP 2450 COLORADO AVENUE, SUITE 400E SANTA MONICA, CA 90404			GOODWIN, JEANNE M	
			ART UNIT	PAPER NUMBER
			2841	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.D

<b>Office Action Summary</b>	<b>Application No.</b> 10/753,737	<b>Applicant(s)</b> KRAUS ET AL.	
	<b>Examiner</b> Jeanne-Marguerite Goodwin	<b>Art Unit</b> 2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-73 is/are pending in the application.
- 4a) Of the above claim(s) 1-24, 33-64 and 68-73 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25, 26 and 29-32 is/are rejected.
- 7) ☒ Claim(s) 27 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/07/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/30/2004</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

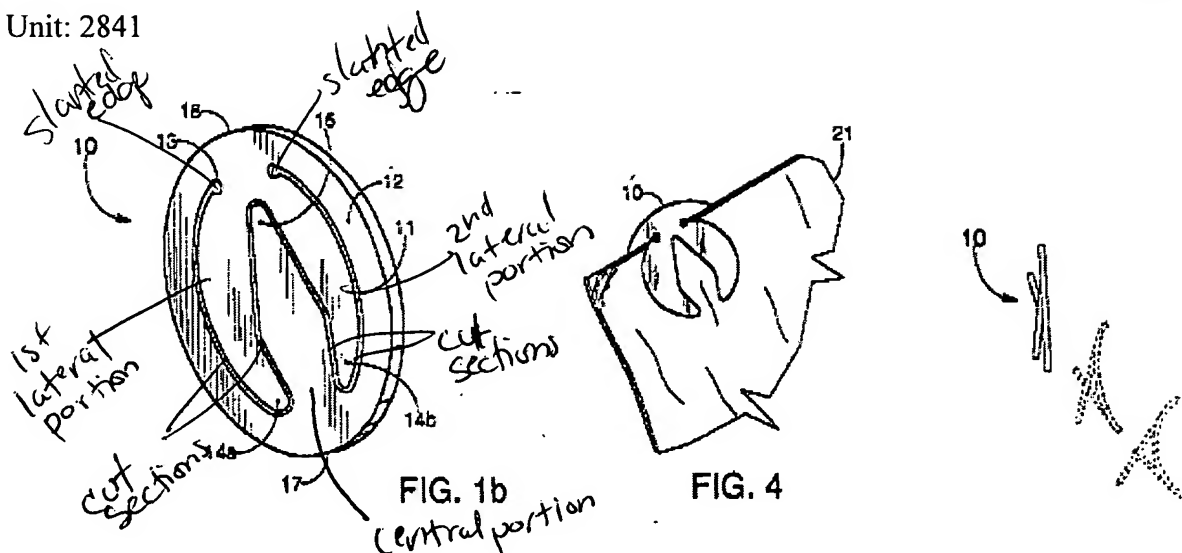
1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,516,114 to Michlin et al. [hereinafter Michlin] in view of US Design 992,233 to Myers.

**As per claim 25:** Michlin discloses a spring clip having a first lateral portion, a second lateral portion and a central portion (see figure below) acting as a spring and located between the first lateral portion and the second lateral portion (see figure below), each of the first and second lateral portions having a substantially semi-circular shape; the central portion being a bent central portion having a substantially diamond shape and having a first slanted edge and a second slanted edge; the spring element further comprising first and second cut sections (see figure below) separating the central portion from the first and second lateral portions respectively, each of the first and second cut sections having a distal end and a proximate end, the distal end being located between the first or second slanted edge and the first corner of the first and second lateral portions (see figure below).

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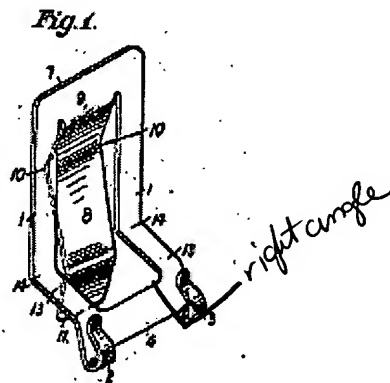


As per claim 25: Myers discloses a spring clip having first and second lateral portions having a substantially rectangular shape. In regards to the rectangular shape as claimed by applicant, the shape of the lateral portions, i.e., rectangular shape, absent any criticality, is only considered to be an obvious modification of the shape of the first and second lateral portions disclosed by Michlin as the courts have held that a change in shape or configuration, without any criticality, is within the level of skill in the art as the particular shape claimed by applicant is nothing more than one of numerous shapes that a person having ordinary skill in the art will find obvious to provide using routine experimentation based on its suitability for the intended use of the invention. See In re Dailey, 149 USPQ 47 (CCPA 1976). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the shape of the first and second lateral portions, as taught by Michlin, with the rectangular shape as taught by Myers, since both are alternative types of spring clips which will provide the same function, if one is replaced with the other, of clamping an article.

As per claim 25: Myers discloses a spring clip further having the first and second portions comprising a slanted leg (see figure below), each slanted leg comprising a first leg

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portion and a second leg portion (see figure below), the first leg portion substantially lying in a first plane, the second leg portion substantially lying on a second plane different from the first plane, and the second leg portion ending with a hollow section (see figure below). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add the leg portions, as taught by Myers, to the first and second lateral portions, as taught by Michlin, to serve as dual clamping means.



**As per claim 25:** Michlin's further has each of the first and second lateral portions comprising a first corner substantially facing the central portion (see figure below).

**As per claim 26:** Myers' device second plane is substantially perpendicular to the first plane (see figure above).

3. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Michlin and Myers in view of JP2001015244.

**As per claim 29:** JP2001015244 discloses a process of manufacturing a spring comprising annealing a material, inherently cutting the annealed material, bending the cut annealed material and heat treating the bent cut annealed material. Therefore, it would have

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been obvious to a person having ordinary skill in the art at the time the invention was made to manufacture the spring of the combination of Michlin and Myers, by the manufacturing process, as taught by JP2001015244, as one of many ways of manufacturing the spring.

**As per claim 30:** If the process of JP2001015244 is used than it would produce the spring of claim 25, respectively.

4. Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Michlin and Myers in view US D468,357 to Rosen.

**As per claim 31:** Rosen illustrates a spring having a hinge pin. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add the hinge pin, as taught by Rosen, to the spring of the combination of Michlin and Myers, in order to allow connection an additional connection of the spring with an item.

**As per claim 32:** Furthermore, the item is connected to the spring via the hinging assembly, respectively.

***Allowable Subject Matter***

5. Claims 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter:

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**As per claim 27:** The combination of Michlin, Myers and JP2001015244 shows spring element as stated above. Applicant's claimed inventions first and second lateral portions comprises a second corner and a third corner, distal to the central portion, each of the first and second lateral portions comprising a first tooth located adjacent the second corner and a second tooth located adjacent to the third corner, the first and second teeth located in a third plane and the first and second lateral portions located in a fourth plane different from the third plane. Furthermore, the spring element of the combination of Michlin, Myers and JP2001015244 does not have such arrangement and there seems to be no motivation to modify the device shown in the combination of Michlin, Myers and JP2001015244 to accommodate such arrangement.

#### ***Conclusion***

7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Jeanne-Marguerite Goodwin whose telephone number is (571) 272-2104. The examiner can normally be reached on Monday-Friday (9am-6pm), alternate Fridays off. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2861.

JMG  
, 2005

  
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